

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

400Q0093

## HOUSE BILL NO. 1021

Introduced by: The Committee on Judiciary at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to provide for a contested case hearing on the denial of a  
2 claim for the recovery of an allegedly overpaid tax, penalty, or interest.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-59-22 be amended to read as follows:

5 10-59-22. The secretary shall determine the amount of any tax overpayment recoverable by  
6 a taxpayer. ~~The secretary's determination of the amount of the overpayment recoverable is, for~~  
7 ~~the purpose of judicial review, a final decision in a contested case.~~ The secretary shall credit any  
8 recovery of overpaid taxes against the future taxes of the taxpayer, except:

9 (1) A taxpayer having no future tax obligations may receive a refund; or

10 (2) A taxpayer whose recovery credit is not used within one year may receive a refund  
11 equal to the amount of recovery credit unused at the end of the one-year period.

12 Section 2. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Any taxpayer aggrieved by the denial in whole or in part of a claim for recovery of an  
15 allegedly overpaid tax, penalty, or interest, may in writing request a contested case hearing



1 before the secretary. The written hearing request shall be mailed to the department on or before  
2 thirty days from the date that notice of denial was mailed to the taxpayer by certified mail, return  
3 receipt requested. Any hearing shall be conducted and any appeal shall be taken pursuant to the  
4 provisions of chapters 1-26 and 1-26D.